



SOUTH OF SCOTLAND ENTERPRISE

AGRICULTURAL & FORESTY BLOCK EXEMPTION SCHEME

TABLE OF CONTENTS

INTRODUCTION TO STATE AID	1
ABOUT THIS SCHEME	3
ARTICLE 14: AID FOR INVESTMENTS IN TANGIBLE ASSETS OR INTANGIBLE ASSETS ON AGRICULTURAL HOLDINGS LINKED TO PRIMARY AGRICULTURAL PRODUCTION	8
ARTICLE 15: AID FOR AGRICULTURAL LAND CONSOLIDATION	12
ARTICLE 16: AID FOR INVESTMENTS CONCERNING THE RELOCATION OF FARM BUILDINGS	13
ARTICLE 17: AID FOR INVESTMENTS IN CONNECTION WITH THE PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS	14
ARTICLE 18: START-UP AID FOR YOUNG FARMERS	15
ARTICLE 19: START-UP AID FOR PRODUCER GROUPS AND ORGANISATIONS IN THE AGRICULTURAL SECTOR	17
ARTICLE 20: AID FOR THE PARTICIPATION OF PRODUCERS OF AGRICULTURAL PRODUCTS IN QUALITY SCHEMES	19
ARTICLE 21: AID FOR KNOWLEDGE TRANSFER AND INFORMATION ACTIONS	22
ARTICLE 22: AID FOR ADVISORY SERVICES	23
ARTICLE 24: AID FOR PROMOTION MEASURES IN FAVOUR OF AGRICULTURAL PRODUCTS	25
ARTICLE 29: AID FOR INVESTIGATIONS IN FAVOUR OF THE CONSERVATION OF CULTURAL AND NATURAL HERITAGE LOCATED ON AGRICULTURAL HOLDINGS	27
ARTICLE 31: AID FOR RESEARCH AND DEVELOPMENT IN THE AGRICULTURAL AND FORESTRY SECTORS	28
ARTICLE 38: AID FOR KNOWLEDGE TRANSFER AND INFORMATION ACTIONS IN THE FORESTRY SECTOR	30
ARTICLE 39: AID FOR ADVISORY SERVICES IN THE FORESTRY SECTOR	31
ARTICLE 43: AID FOR FORESTRY LAND CONSOLIDATION	32
ANNEX 1: DEFINITION OF ANNEX 1 GOODS AS PER THE EU TREATY	34
ANNEX 2: GENERAL DEFINITIONS IN THE SOSE ABE SCHEME	37
ANNEX 3: DEFINITION OF MICRO, SMALL AND MEDIUM SIZED ENTERPRISES	43

INTRODUCTION TO STATE AID

The concept of State aid originates in article 87 of the EC Treaty, which is now article 107 of the Treaty on the Functioning of the European Union (“**TFEU**”). Article 107(1) provides that:

“Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.”

In other words, it is a form of public assistance, given to undertakings on a discretionary basis, which has the potential to distort competition and affect trade between Member States of the European Union.

It is regarded as problematic because State aid may provide an advantage to businesses at the expense of its rivals; it can mean that loss-making businesses remain in the market longer than they should, and that other businesses do not enter the market. This can ultimately result in higher prices for consumers.

It is unknown how the State aid rules will develop once the transition period expires on 31 December 2020. However, as EU State aid rules apply in law until at least the end of the transition period, under the European Union (Withdrawal Agreement) Act 2020 any State aid decisions up until that date can be challenged in the UK Courts for a period of ten years after the individual aid award.

Rules on State aid control are set by the European Commission and comprise various articles of the TFEU, Regulations, Frameworks and Guidelines - which set out what aid is potentially compatible with the single market and the circumstances in which it can be awarded.

The EC governs Member States' compliance with the rules on State aid control and many aid measures must be notified to the Commission and approval given before any award is made. Ignoring the rules can result in the EC or the Courts viewing aid as unlawful and possibly subject to repayment (plus interest) by the aid recipient/undertaking.

It is, however, important to remember that compliance with the State aid rules is not conclusive of whether South of Scotland Enterprise (“**SoSE**”) will award financial assistance or the level of such an award.

The rules on State aid control place constraints on what can be awarded. Accordingly, compliance with these constraints is necessary but not in and of itself sufficient for an award to be made. SoSE's decision-making process as regards the award of financial assistance to businesses focusses on the individual appraisal of business proposals and selection on the basis of their contribution to SoSE's aims, which are to:

- (a) further the sustainable economic and social development of the South of Scotland; and
- (b) improve the amenity and environment of the South of Scotland (our “**Aims**”),

using the minimum level of public finance necessary. The South of Scotland is defined as the areas of:
(a) Dumfries and Galloway Council; and (b) Scottish Borders Council.

In order to achieve those Aims, the South of Scotland Enterprise Act 2019 (which established SoSE) provides that SoSE may take action directed towards (amongst other things):

- (a) supporting inclusive and sustainable economic growth;
- (b) providing, maintaining and safeguarding employment;
- (c) increasing the number of residents in the South of Scotland who are of working age;
- (d) enhancing skills and capacities relevant to employment;
- (e) encouraging business start-ups and entrepreneurship;
- (f) supporting inclusive business models (such as social enterprises and co-operatives of any kind);
- (g) promoting commercial and industrial:
 - (i) efficiency,
 - (ii) innovativeness, and
 - (iii) international competitiveness;
- (h) promoting digital connectivity;
- (i) promoting improved transport services and infrastructure;
- (j) supporting communities to help them meet their needs;
- (k) supporting community ownership of land and other assets;
- (l) maintaining, protecting and enhancing the natural and cultural heritage and environmental quality of the South of Scotland;
- (m) promoting the sustainable and efficient use and re-use of resources;
- (n) supporting the transitions required to meet the net-zero emissions target (as defined in section A1 of the Climate Change (Scotland) Act 2009); and
- (o) encouraging and facilitating collaborations between persons that will advance one or more of South of Scotland Enterprise's aims.

Please refer to SoSE's website for further information on the application process and our minimum requirements for assistance.

ABOUT THIS SCHEME

This scheme is operated by SoSE to enable it to fund projects which involve State aid in the **agriculture and forestry sectors**. SoSE implements this scheme under powers conferred on it by the South of Scotland Enterprise Act 2019.

It is primarily designed to explain the parameters within which SoSE can award funding to projects in the agriculture and forestry sectors in accordance with the EU Agricultural Block Exemption Regulation ("**ABER**")¹. ABER encourages Member States to focus on aid that will be of real benefit to job creation and competitiveness and, in addition, reduces the administrative burden for the public sector, the beneficiaries and the European Commission.

ABER was published in the European Commission's official journal (OJEU L 193) and remains in force until 31 December 2020. Accordingly, this scheme will also remain in force until 31 December 2020. The full reference is Commission Regulation (EU) No 702/2014 of 17 June 2014.

This scheme identifies each aid category with reference to the corresponding article of the ABER. The categories include the following types of State aid activity:

- aid for SMEs active in primary agricultural production, the processing of agricultural products and the marketing of agricultural products;
- aid for investments in favour of conservation of cultural and natural heritage located on agricultural holdings;
- aid for research and development in the agricultural sector; and
- aid in favour of forestry.

Whilst support to the agricultural and forestry sectors are not explicitly within the scope of SoSE's Aims and activities under the South of Scotland Enterprise Act 2019, the ability to award aid under these categories is beneficial for the furtherance of SoSE's Aims, particularly around community ownership of land and assets, maintaining, protecting and enhancing the natural and cultural heritage and environmental quality of the South of Scotland, and promoting the sustainable and efficient use and re-use of resources. There are, however, some Articles of ABER which are too far removed from SoSE's Aims and the actions permitted under the South of Scotland Enterprise Act 2019, and so these have not been included in this scheme.

¹ Commission Regulation (EU) No 702/2014 of 17 June 2014

Please note that SoSE operates separate schemes for sectors which sit outside the scope of ABER, most notably, the SoSE General Block Exemption Scheme (“GBER scheme”) and SoSE Fisheries & Aquaculture Block Exemption Scheme (“FBER scheme”).

ABER ELIGIBILITY AND COMPLIANCE MATTERS

1 Who can apply?

- 1.1 This scheme covers State aid to the sectors of: primary agricultural production; processing of agricultural products; and forestry. Aid is potentially available to any person or body that carries out the eligible activities and meets the relevant conditions of the given aid category, irrespective of the form or constitution of the applicant.
- 1.2 In practice both primary agricultural production and forestry imply that the beneficiary would be a land holder (tenant or owner) of biologically productive land, but this is not a pre-requisite.
- 1.3 SMEs are eligible for all types of aid in all three sectors, but large firms have limited eligibility. Each category of aid detailed below sets out the eligibility for large and small firms, but for ease of reference:

Type of firm and aid type	Article No.	SME Eligibility Y/N	Large Firm Eligibility Y/N
Large firms & SMEs as agricultural producer groups, providers of promotion measures, of advisory services & of knowledge transfer services	19, 21,22, 24 & 39	Y	Y
Large firms & SMEs – conservation of culture & natural heritage on farms	29	Y	Y
Large firms & SNEs – R&D in agriculture and forestry	31	Y	Y
Large firms & SMEs – forestry except for forestry land consolidation	32 – 40	Y	Y
Articles only available to SMEs active in primary agricultural production – the aid benefits land management	14, 15,16 & 18	Y (must be primary producers)	N
Articles available to all SMEs if they carry out activity that is eligible under the article	17, 19 – 43	Y	Y for some (as above)
SMEs active in forestry land consolidation	43	Y	N

1.4 Successful applicants should be able to demonstrate that the aided project will deliver commercial benefits to the SoSE area (being the areas of: (a) Dumfries and Galloway Council; and (b) Scottish Borders Council). For the avoidance of doubt, the beneficiary is **not** required to be head-quartered or predominantly established in the SoSE area.

2 **Mandatory Criteria**

2.1 Different conditions will apply to different categories of aid under this scheme, as required by ABER, which are detailed in respect of each article below. However, **all scheme awards must comply with the following criteria:**

2.1.1 the project will deliver commercial benefits to the enterprise and to the SoSE area;

2.1.2 the project would not be able to proceed at all, or not at the same scale or speed without public assistance; and

2.1.3 the aid shall have an incentive effect. The key requirement of which is that the beneficiary has submitted a written application to SoSE before work on the project activity has started. However, the following types of agricultural aid under this scheme do not need to demonstrate an incentive effect:

(a) promotion of agricultural products among the wider public (Article 24);

(b) conservation of heritage on farms (Article 29);

(c) Research & Development of interest to all in the sector (Article 31); and

2.1.4 the enterprise has the capacity to implement the project effectively to enhance its future competitiveness.

2.2 In addition, it should be noted that aid awarded under this scheme must be “transparent” aid, ie. grants and interest rate subsidies, loans where gross grant equivalent takes account of the reference rate, and some types of repayable advances. In other words, transparent aid means when it is possible to calculate a realistic value for the aid.

2.3 The following are **ineligible** for aid under this scheme:

2.3.1 aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;

2.3.2 aid contingent upon the use of domestic over imported goods;

2.3.3 aid granted to undertakings in difficulty (see Annex 2 for the tests to ascertain whether a beneficiary is an undertaking in difficulty);

- 2.3.4 aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market (with the exception of aid schemes to make good the damage caused by natural disasters, which category is not (in any event) covered by this scheme);
- 2.3.5 ad hoc aid in favour of an undertaking which is subject to an outstanding recovery order, as above;
- 2.3.6 aid which is subject to an obligation on the beneficiary to locate its headquarters in the UK;
- 2.3.7 aid where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services; and
- 2.3.8 aid with conditions attaching that would prevent the possibility of a beneficiary to exploit Research, development and innovation results in other Member States of the EU.

3 Definition of the “Beneficiary” and of the “Undertaking”

- 3.1 State aid regulations and guidelines refer to the “beneficiary” of aid, especially in connection with State aid ceilings and obligations that attach to the aid. The beneficiary is the undertaking which receives a selective advantage from the aid, but “undertaking” has particular meaning for State aid purposes and may not necessarily be the applicant or the direct recipient of the particular aid concerned.
- 3.2 An “undertaking” for State aid purposes is an entity, or group of entities that carry out a commercial operation. The European Commission focuses on the activity being undertaken and the relevant market, rather than the nature of the entity (or entities) itself. If they are involved in any trading or commercial activities (even if not-for-profit) then state aid issues will need to be considered.
- 3.3 Where several different activities are necessary in order to complete a commercial transaction, and where they have been set up in order to deliver the commercial activity, and thus one depends on the other, then there may be several entities engaged in an undertaking. Sometimes these relationships are contractual, such as a partnership, rather than formal ownership links, but the key element is that they are each engaged in part of a commercial operation and they share in some way in the risks and rewards of the commercial operation.

4 Aid Ceilings and Aid Intensity

- 4.1 Aid intensity is the maximum permitted amount of aid expressed as a percentage of the eligible costs of a given project. No deduction for tax or any other charge is made. Aid payable

in several instalments shall be discounted to its value at the moment of granting. The discount rate used in grant equivalence and for present value calculations is the EU Discount Rate.²

The eligible costs shall be supported by documentary evidence which shall be clear and itemised. The aid intensity for each category of aid is set out at each category below.

4.2 Aid above a certain threshold must be **notified to the European Commission** and approved before it is awarded.

4.3 For investment aid in tangible or intangible assets on agricultural holdings (Article 14) and relocation of farm buildings (Article 16), financial assistance expressed in Gross Grant Equivalence terms may not exceed the sterling equivalent of **€500,000** on the date of “granting”, per undertaking per project.

The date of granting is the date when the finance becomes **legally available to the beneficiary** free of any outstanding conditions that require a subjective decision by SoSE to determine that the condition has been met. For example: evidence of planning condition; the availability of finance; and receipted expenditure are objective conditions which are not covered by this condition, whereas “submission of a business plan to SoSE’s satisfaction” would be a subjective condition.

4.4 State aid for investments in connection with processing or marketing (Article 17) and aid for research and development in agriculture or forestry (Article 31) are limited to the sterling equivalent of **€7.5m**.

4.5 Aid in excess of these limits must be notified to and approved by the European Commission before a grant offer can be made. This process can take 6-12 months to complete.

5 **Cumulation with other assistance**

5.1 The maximum aid intensity applies to the combined State aid value of all forms of public support, including EU funding.

5.2 Aid under this scheme may be cumulated with other categories of aid under this Scheme provided that they concern different eligible costs.

5.3 Aid under this scheme may only be cumulated with other aid or *De Minimis* aid towards the same or partly overlapping eligible costs under the restricted circumstances where the resulting cumulation would not exceed the permitted maximum intensity under this scheme. Under no circumstances can aid be cumulated with other aid under this scheme or *De Minimis* aid towards the same eligible costs, if the resulting intensity of aid to the eligible costs exceeds the limits of this scheme.

² The link in full is http://ec.europa.eu/competition/state_aid/legislation/reference_rates.html - here you can select the latest update

ARTICLE 14: AID FOR INVESTMENTS IN TANGIBLE ASSETS OR INTANGIBLE ASSETS ON AGRICULTURAL HOLDINGS LINKED TO PRIMARY AGRICULTURAL PRODUCTION

Only SMEs active in primary agricultural production are eligible.

Eligible activities

The investment may be carried out by one or more beneficiaries or concern a tangible asset or intangible asset used by one or more beneficiaries.

The investment shall pursue at least one of the following objectives:

- (a) the improvement of the overall performance and sustainability of the agricultural holding, in particular through a reduction of production costs or the improvement and re-deployment of production;
- (b) the improvement of the natural environment, hygiene conditions or animal welfare standards, provided that the investment concerned goes beyond Union standards in force;
- (c) the creation and improvement of infrastructure related to the development, adaptation and modernisation of agriculture, including access to farm land, land consolidation and improvement, the supply and saving of energy and water;
- (d) the achievement of agri-environmental-climate objectives, including the biodiversity conservation status of species and habitat as well as enhancing the public amenity value of a Natura 2000 area or other high nature value systems, defined in the national or regional rural development programmes of Member States, as long as investments are non-productive;
- (e) the restoration of production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases and plant pests and the prevention of damages caused by those events.

The investment may be linked to the production at farm-level of biofuels or of energy from renewable sources, provided that such production does not exceed the average annual consumption of fuels or energy of the given farm.

Where the investment is made for the production of biofuels, the production capacity of the production facilities shall be no more than the equivalence to the annual average transport fuel consumption of the agricultural holding and the produced biofuel shall not be sold on the market.

Where the investment is made for the production of thermal energy and electricity from renewable sources on agricultural holdings, the production facilities shall serve only the beneficiary's own energy needs and their production capacity shall be no more than the equivalent to the combined average annual energy consumption of thermal energy and electricity on the agricultural holding, including the farm household.

The selling of electricity into the grid shall only be allowed as far as the annual self-consumption limit is respected.

Where the investment is carried out by more beneficiaries with the purpose to serve their own biofuel and energy needs, the annual average consumption shall be accumulated to the amount equivalent to the average annual consumption of all beneficiaries.

The investments in renewable energy infrastructure that consume or produce energy shall comply with minimum standards for energy efficiency, where such standards exist at national level.

Investments in installations, the primary purpose of which is electricity production from biomass, shall not be eligible for aid unless a minimum percentage of heat energy, to be determined by the Member States, is utilised. Member States shall establish thresholds for the maximum proportions of cereals and other starch rich crops, sugars and oil crops used for bioenergy production, including biofuels, for different types of installations. Aid to bioenergy investment projects shall be limited to bioenergy meeting the applicable sustainability criteria laid down in Union legislation, including in Article 17(2) to (6) of the EU Directive on Promotion of the use of energy from renewable sources.³

For investment requiring an environmental impact assessment the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

Eligible Costs

- (a) the costs for the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of the total eligible costs of the operation concerned;
- (b) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
- (c) the general costs linked to the expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (a) and (b) is incurred;
- (d) the acquisition or development of computer software and the acquisition of patents, licences, copyrights and trademarks;
- (e) expenses for non-productive investments linked to the objectives referred to in paragraph (d);
- (f) in the case of irrigation, the costs for investments that fulfil the following conditions:

³ Directive 2009/28/EC

- (i) a river basin management plan, as required by Article 13 of the EU Directive on the establishment of a framework for Community action in the field of water policy (2), must have been notified to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment. The measures taking effect under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector must be specified in the relevant programme of measures. Water metering enabling measurement of water use at the level of the supported investment must be in place or must be put in place as part of the investment;
- (ii) the investment must lead to a reduction of previous water use of at least 25 %;

However, as regards point (f) investments affecting bodies of ground or surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity as well as investments resulting in a net increase of the irrigated area affecting a given body of ground- or surface water shall not be eligible for aid under this Article.

The conditions of point (f) (i) and (ii) above shall not apply to an investment in an existing installation which affects only energy efficiency or to an investment in the creation of a reservoir or to an investment in the use of recycled water which does not affect a body of ground- or surface water;

- g) in the case of investments aimed at the restoration of agricultural production potential damaged by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases or plant pests the eligible costs may include the costs incurred for restoring the agricultural production potential up to the level it was at before the occurrence of those events;
- h) in the case of investments aimed at the prevention of damages caused by natural disasters, adverse climatic events which can be assimilated to natural disasters, animal diseases or plant pests, the eligible costs may include the costs of specific preventive actions.

In the case of irrigation, aid shall be paid only by Member States which ensure, in respect of the river basin district in which the investment takes place, a contribution of the different water uses to the recovery of the costs of water services by the agricultural sector consistent with Article 9 first indent of the Water Policy Community Action Directive⁴ having regard here appropriate, to the social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.

Ineligible expenditure and restrictions on eligible expenditure

The following are not considered to be an eligible cost:

⁴ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

- (a) working capital; and
- (b) costs, other than those referred to in (a) and (b) above connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges

Aid shall not be granted in respect of the following:

- (a) the purchase of production rights, payment entitlements and annual plants;
- (b) the planting of annual plants;
- (c) drainage works;
- (d) investments to comply with Union standards, with exception of aid granted to young farmers within 24 months from the date of their setting-up; and
- (e) the purchase of animals, with exception of aid granted for investments pursuant to paragraph (e) above.

Sectoral eligibility

The aid shall not be limited to specific agricultural products and must therefore be available either to all sectors of the primary agricultural production or to the whole plant production sector or to the whole animal production sector. However, Member States may exclude certain products because of overcapacity in the internal market or a lack of market outlets.

Aid intensity as a % of eligible costs

40% which may be increased to 60% for:

- (a) young farmers, or farmers who have set up during the five years preceding the date of application for aid;
- (b) collective investments, such as storage facilities which are used by a group of farmers or facilities to prepare the agricultural products before marketing, and integrated projects covering several measures provided for in the European Agricultural Fund for Rural Development (“**EAFRD**”)⁵, including those linked to a merger of producer organisations;
- (c) investments in areas facing natural and other specific constraints;
- (d) operations supported in the framework of the European Innovation Partnership (“**EIP**”), such as an investment in a new stable, allowing the testing of a new practice of animal housing,

⁵ Regulation (EU) No 1305/2013

which has been developed in an operational group composed of farmers, scientists, and animal welfare non-governmental organisation;

- (e) investments for the improvement of the natural environment, hygiene conditions or animal welfare standards, as referred to in (b); in this case the increased rate as provided for in this paragraph shall only apply to the additional costs necessary to obtain a level exceeding the Union standards in force and not leading to an increase in production capacity.

As regards non-productive investments referred to in the eligible activities and investments for the restoration of production potential, the maximum aid intensity shall not exceed 100 %. For investments in relation to preventive measures, referred to in paragraph (e) above, the maximum aid intensity shall not exceed 80%. However, it may be increased to up to 100 % if the investment is carried out collectively by more than one beneficiary.

Aid Ceilings by Value

€500,000

Types of assistance

Grant, loan, equity, guarantees.

ARTICLE 15: AID FOR AGRICULTURAL LAND CONSOLIDATION

Only SMEs active in primary agricultural production are eligible.

Eligible activities

Support to individuals and SMEs for the operational costs of consolidating land that is owned or controlled by more than one person or entity so that it can function as a single land-holding for agricultural purposes.

Eligible Costs

- Legal costs.
- Administrative costs.
- Survey costs.

Aid limits

Up to **100%** of eligible costs.

Types of assistance

Grant or Loan.

Notification threshold

No threshold has been set.

ARTICLE 16: AID FOR INVESTMENTS CONCERNING THE RELOCATION OF FARM BUILDINGS

Only SMEs active in primary agricultural production are eligible.

Eligible activities

The relocation of the farm building shall pursue an objective of public interest. The public interest invoked to justify the granting of aid under this Article shall be specified in the relevant provisions of the Member State concerned.

Eligible Costs

Dismantling moving and relocating existing farm buildings.

Aid limits

- For non-productive investment the maximum aid intensity may reach up to **100 %** of the actual eligible costs where the relocation concerns activities close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the rural settlement.
- For productive investments involving relocation where, in addition to the dismantling, removal and re-building of existing facilities, the relocation results in a modernisation of these facilities or in an increase in production capacity the aid intensities for investments referred to in Article 14 above shall apply in respect to the costs relating to the modernisation of the facilities or the increase in the production capacity. For the purpose of this paragraph, the pure replacement of an existing building or facilities by a new up-to-date building or facilities without fundamentally changing the production or the technology involved shall not be considered to be related to the modernisation.

Types of assistance

Grant and loan.

Notification threshold

€500,000 for investments concerning the relocation of a farm building resulting in the modernisation of facilities or in an increase in production capacity.

ARTICLE 17: AID FOR INVESTMENTS IN CONNECTION WITH THE PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS

Only SMEs are eligible.

Eligible activities

The investment shall concern the processing of agricultural products or the marketing of agricultural products.

- **“agricultural product”** means the products listed in Annex I, except the fishery and aquaculture products listed in Annex I to the Regulation on the Common organisation of markets in fishery and aquaculture⁶ (see SoSE’s FBER Scheme for more details);
- **“processing of agricultural products”** means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for first sale;
- **“marketing of agricultural products”** means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers is considered as marketing of agricultural products if it takes place in separate premises reserved for that purpose.

Ineligible activities

- Investments in connection with the production of food based biofuels shall not be eligible for aid under this Article.
- Aid shall not be granted in respect of investments to comply with Union standards in force.

Eligible Costs

- (a) The construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned.
- (b) The purchase or lease purchase of machinery and equipment up to the market value of the asset.
- (c) General costs linked to expenditure referred to in points (a) and (b), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic

⁶ (EU) No 1379/2013

sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in points (a) and (b) is incurred.

- (d) Acquisition or development of computer software and acquisitions of patents, licenses, copyrights, trademarks.

Costs, other than those referred to in paragraph (a) and (b), connected with leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges shall not be considered to be eligible costs. Working capital shall not be considered to be an eligible cost.

Special Conditions

For investment requiring an environmental impact assessment under the EU Directive on the assessment of the effect of certain public and private projects on the environment⁷ the aid shall be subject to the condition that such assessment shall have been carried out and the development consent shall have been granted for the investment project concerned before the date of granting the individual aid.

Aid limits

40 % of the amount of the eligible costs.

This may be increased by 20%:

- (a) linked to a merger of producer organisations; or
- (b) supported in the framework of the EU Entrepreneurship and Innovation Programme (“EIP”).

Types of assistance

Grant, loan, equity, guarantees.

Notification threshold

€7.5m

ARTICLE 18: START-UP AID FOR YOUNG FARMERS

Aid shall be limited to micro and small enterprises active in primary agricultural production.

⁷ 2011/92/EU

Eligible activities

Assistance to set up a new agricultural holding by a qualified or suitably experienced young farmer under the age of 40 years (see Annex 2 for the definition of “young farmer”) and the development of small farms.

Special conditions of eligibility attaching to the activities

Where the aid is granted to a young farmer who is setting up a holding in the form of a legal person, the young farmer shall exercise effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. Where several people including those not the young farmer, participate in the capital or management of the legal person, the young farmer shall be capable of exercising such effective and long-term control either solely or jointly together with other persons. Where a legal person is solely or jointly controlled by another legal person, those requirements shall apply to any natural person having control over that other legal person.

The aid shall be conditional on the submission of a business plan, the implementation of which shall start within nine months from the date of the adoption of the decision granting the aid. The business plan shall describe at least the following:

- (a) in the case of start-up aid to young farmers:
 - (i) the initial situation of the agricultural holding;
 - (ii) milestones and targets for the development of the activities of the agricultural holding;
 - (iii) details of the actions, including those related to environmental sustainability and resource efficiency, required for the development of the activities of the agricultural holding, such as investments, training, advice;
- (b) in the case of start-up aid for the development of small farms:
 - (i) the initial situation of the agricultural holding;
 - (ii) details of actions, including those related to environmental sustainability and resource efficiency, that could support the achievement of economic viability, such as investments, training, cooperation.

For young farmers, the business plan shall provide that the beneficiary is required to fall within the definition of “active farmer” provided for in the definition 42 of Annex 2 to this guidance within 18 months from the date of setting up. However, where the beneficiary does not possess adequate occupational skills and competences to fall within that definition, the beneficiary shall be entitled to receive aid, provided that the beneficiary makes a commitment to acquire those occupational skills and competences within 36 months from the date of the adoption of the decision granting the aid. That commitment must be included in the business plan.

Aid shall be provided or paid in at least two tranches or instalments over a maximum period of five years. The last instalment of the aid shall be conditional upon the correct implementation of the business plan referred to in this section.

Aid limits

The aid amount per small farm is limited to the Sterling equivalent of **€15,000** and per young farmer shall be limited to the Sterling equivalent of **€70,000** where they are involved in more than one farm.

Types of assistance

Grant and loan.

ARTICLE 19: START-UP AID FOR PRODUCER GROUPS AND ORGANISATIONS IN THE AGRICULTURAL SECTOR

Newly formed producer groups are likely to be SMEs but the beneficiary may be an SME or a large firm.

Eligible activities

Start-up assistance for producer groups or organisations that have been officially recognised by the competent authority of the UK or Scottish Government on the basis of a submission of a business plan.

Ineligible bodies and activities

Aid shall not be granted to:

- (a) production organisations, entities or bodies such as companies or cooperatives, the objective of which is the management of one or more agricultural holdings and which are therefore in effect single producers;
- (b) agricultural associations, which undertake tasks such as mutual support and farm relief and farm management services, in the members' holdings without being involved in the joint adaptation of supply to the market.

Special conditions are as follows:

- 1 Except in the milk and milk product sectors, producer groups, organisations or associations must pursue a specific aim which may include at least one of the following objectives:
 - 1.1 ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - 1.2 concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;

- 1.3 optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;
 - 1.4 carrying out research and development initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;
 - 1.5 promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;
 - 1.6 promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;
 - 1.7 the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;
 - 1.8 contributing to a sustainable use of natural resources and to climate change mitigation;
 - 1.9 developing initiatives in the area of promotion and marketing;
 - 1.10 managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013;
 - 1.11 providing the necessary technical assistance for the use of the futures markets and of insurance schemes.
- 2 In the milk and milk product sectors, producer groups, organisations or associations must pursue a specific aim which may include at least one of the following objectives:
- 2.1 ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - 2.2 concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;
 - 2.3 optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices.
- 3 If the aid concerns an association of producer organisations, appraising staff should check with Scottish Government Rural Affairs whether the body would be eligible according to the Common Organisation of Markets in Agricultural Products.

Eligible Costs

The aid shall cover the following eligible costs:

- the costs of the rental of suitable premises;
- the acquisition of office equipment, including computer hardware and software;
- administrative staff costs;
- overheads and legal and administrative fees;
- where premises are purchased, the eligible costs for premises shall be limited to rental costs at market rates.

Aid intensity and aid conditions

The aid intensity shall be limited to 100% of the eligible costs.

- The aid shall be degressive (ie. successive tranches are of lesser amounts than the previous one).
- The aid shall be paid as a flat rate aid in annual instalments for the first five years from the date on which the producer group or organisation was officially recognised by the competent authority on the basis of the business plan referred to in paragraph 2. Member States shall only pay the last instalment after having verified the correct implementation of that business plan.
- The aid shall be granted subject to the obligation of the Member State concerned to verify that the objectives of the business plan have been reached within a period of five years from the date of the official recognition of the producer group or organisation.
- The agreements, decisions and concerted practices concluded in the framework of the producer group or organisation shall comply with the competition rules as they apply by virtue of Articles 206 to 210 of the EU Regulation on common organisation of markets in agricultural products.

Types of assistance

Grant and loan.

Notification threshold

€500 000

ARTICLE 20: AID FOR THE PARTICIPATION OF PRODUCERS OF AGRICULTURAL PRODUCTS IN QUALITY SCHEMES

Only SMEs are eligible.

State aid under this article is intended to be used for schemes rather than ad hoc cases, and there is a special condition that the assistance “shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions”.

Eligible activities

The following may be assisted:

- 1.1 new participation in quality schemes by producers of agricultural products;
- 1.2 compulsory control measures in relation to the quality schemes undertaken pursuant to European Union or national legislation by or on behalf of the competent authority;
- 1.3 preparation of applications for entering a quality scheme (including market research activities, product conception and design).

The quality schemes must comply with one of the following;

- (a) quality schemes for agricultural products (including farm certification schemes) that are recognised by EU Regulations;
- (b) quality schemes for agricultural products (including farm certification schemes) that are recognised by the UK or Scottish Government as complying with the following criteria:
 - (i) the specificity of the final product produced under such quality schemes must be derived from a clear obligations to guarantee:
 - A specific product characteristics; or
 - B specific farming or production methods; or
 - C the quality of the final product that goes significantly beyond the commercial commodity standards as regards public, animal or plant health, animal welfare or environmental protection;
 - (ii) the quality scheme must be open to all producers;
 - (iii) the quality scheme must involve binding final product specifications and compliance with those specifications must be verified by public authorities or by an independent inspection body;
 - (iv) the quality scheme must be transparent and assure complete traceability of agricultural products;
- (c) voluntary agricultural product certification schemes recognised by the Member State concerned as meeting the requirements laid down in the Commission Communication — EU

best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs.⁸

Eligible costs

The following categories of aid to producers of agricultural products shall be eligible for this aid:

- (a) costs of new participation in quality schemes;
- (b) costs for compulsory control measures in relation to the quality schemes undertaken pursuant to European Union or national legislation by or on behalf of the competent authority;
- (c) costs of market research activities, product conception and design and for preparation of applications for the recognition of quality schemes.

Aid limits and special conditions

- (a) The aid for new participation in quality schemes in 1.1 above shall be granted to producers of agricultural products in the form of an annual incentive payment, the level of which shall be determined according to the level of the fixed costs arising from participation in the quality schemes.
- (b) The aid for participation and control measures in 1.1 and 1.2 above shall not be granted towards the cost of controls undertaken by the beneficiary itself, or where Union legislation provides that the cost of controls is to be met by producers of agricultural products and groups thereof, without specifying the actual level of charges.
- (c) The aid for participation in quality schemes shall be granted for a maximum period of five years and shall be limited to the sterling equivalence of €3,000 per beneficiary per year.
- (d) The aid shall be accessible to all those eligible undertakings in the area concerned, based on objectively defined conditions.
- (e) The aid for control measures and preparatory work as in 1.2 and 1.3 above shall be paid to the body responsible for control measures, the research provider or the consultancy provider.
- (f) The aid for control measures and preparatory costs as in 1.2 and 1.3 above shall be limited to 100 % of the real costs incurred.

Types of assistance

Grant and loan.

⁸ OJC 341, 16.12.2010, P.5.

ARTICLE 21: AID FOR KNOWLEDGE TRANSFER AND INFORMATION ACTIONS

The final beneficiaries shall be SMEs but service providers may be firms of any size.

State aid under this article is intended to be used for schemes rather than ad hoc cases, and there is a special condition that the assistance “shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions”.

Eligible activities

- Knowledge transfer and information actions.
- Vocational training and skills acquisition actions, including training courses, workshops and coaching.
- Demonstration activities and information actions.
- Aid may also cover short-term farm management exchange and farm visits.

Eligible Costs

- Aid to demonstration activities may cover relevant investment costs.
- The costs of organising the vocational training, skills acquisition actions, including training courses, workshops and coaching, demonstration activities or information actions;
- The costs for travel, accommodation and per diem expenses of the participants;
- The cost of the provision of replacement services during the absence of the participants;
- In the case of demonstration projects in relation to investments:
 - (i) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned;
 - (ii) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
 - (iii) general costs linked to expenditure referred to in points (i) and (ii), such as architect, engineer and consultation fees, fees relating to advice on environmental and economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under in points (i) and (ii) is incurred;

- (iv) the acquisition or development of computer software and the acquisitions of patents, licences, copyrights and trademarks.
- The costs referred to above for demonstration projects shall only be eligible to the extent used for the demonstration project and for the duration period of the demonstration project. Only the depreciation costs corresponding to the life of the demonstration project, as calculated on the basis of generally accepted accounting principles, shall be considered as eligible.

Aid limits and special conditions

The aid intensity shall be limited to 100% of the eligible costs. In the case of demonstration projects the maximum aid amount shall be limited to the sterling equivalence of **€100,000** over three fiscal years.

Aid for organising events and replacement services referred to under “Eligible Costs” above shall not involve direct payments to the beneficiaries. This aid shall be paid to the provider of the knowledge transfer and information actions.

Bodies providing knowledge transfer and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out those tasks.

The provision of vocational training and skills acquisition activities may be undertaken by producer groups or other organisations, regardless of their size.

The aid shall be accessible to all those eligible undertakings in the area concerned, based on objectively defined conditions.

Where the provision of the eligible activities is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to those activities. Any contribution of non-members towards the administrative costs of the producer group or organisation concerned shall be limited to the costs of providing the activities that the beneficiaries participate in.

Types of assistance

Grant or loan.

ARTICLE 22: AID FOR ADVISORY SERVICES

The final beneficiaries shall be SMEs but service providers may be firms of any size.

State aid under this article is intended to be used for schemes rather than ad hoc cases, and there is a special condition that the assistance “shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions”.

The aid shall be designed to help undertakings active in the agricultural sector and young farmers benefit from the use of advisory services for the improvement of the economic and environmental performance as well as the climate friendliness and resilience of their undertaking or investment.

Eligible activities

Payments to service providers for advisory services for undertakings active in the agricultural sector and young farmers.

The advice shall be linked to at least one Union priority for rural development in accordance with Article 5 of the EAFRD and shall cover as a minimum one of the following elements:

- (a) obligations deriving from the statutory management requirements or standards for good agricultural and environmental conditions provided for in the EU Regulation of General Principles of Cross Compliance;⁹
- (b) where applicable, the agricultural practices beneficial for the climate and the environment laid down in Chapter 3 of Title III of Regulation on Payment for agricultural practices beneficial for the climate and the environment¹⁰ and the maintenance of the agricultural area referred to in Article 4(1)(c) of that Regulation (that is, “maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission”);
- (c) measures aiming at modernisation, competitiveness building, sectoral integration, innovation, market orientation as well as the promotion of entrepreneurship;
- (d) requirements as defined by Member States for implementing Article 11(3) (ie. “minimum requirements to be Complied with”) of the Directive on Community action in the field of water policy;¹¹
- (e) requirements as defined by Member States for implementing Article 55 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council (placing of plant protection products on the market), and in particular the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC of the European Parliament and of the Council;
- (f) where relevant, occupational safety standards or safety standards linked to the farm;
- (g) specific advice for farmers setting up for the first time, including advice on economic and environmental sustainability.

Advice may also cover issues, other than those referred to in paragraphs (a) – (g) above, related to climate change mitigation and adaptation, biodiversity and protection of water as laid down in the EU Regulation on direct payments to farmers under the CAP¹² or linked to the economic and environmental

⁹ Chapter I of Title VI of Regulation (EU) No 1306/2013

¹⁰ (EU) No 1307/2013

¹¹ Directive 2000/60/EC

¹² Annex I to Regulation (EU) No 1307/2013

performance of the agricultural holding including competitiveness aspects. This may include advice for the development of short supply chains, organic farming and health aspects of animal husbandry.

Eligible Costs

The revenue and capital costs for the delivery of advisory services by suitably qualified service providers.

Special conditions

- The aid shall not involve direct payments to the beneficiaries. The aid shall be paid to the advisory service provider.
- The bodies selected to provide the advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in.
- The provision of advisory service may be undertaken by producer groups or other organisations, regardless of their size.
- When providing advice, the provider of the advisory service shall respect the non-disclosure obligations referred to in the EU Regulation on the management of the CAP.¹³
- The aid shall be accessible to all those eligible undertakings in the area concerned, based on objectively defined conditions.
- Where the provision of advisory services is undertaken by producer groups and organisations, membership of such groups or organisations shall not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned shall be limited to the costs of providing the advisory service.

Aid limits

The amount of aid shall be limited to the sterling equivalent of **€1,500** per advice.

Types of assistance

Grants and loans.

ARTICLE 24: AID FOR PROMOTION MEASURES IN FAVOUR OF AGRICULTURAL PRODUCTS

The provision of promotion activity may be by firms of any size.

¹³ Article 13(2) of Regulation (EU) No 1306/2013

State aid under this article is intended to be used for schemes rather than ad hoc cases, and there is a special condition that the assistance “shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions”.

Eligible activities

The aid shall cover:

- (a) the organisation of and participation in competitions, trade fairs and exhibitions;
- (b) publications aimed at raising awareness of agricultural products among the wider public.

Eligible costs

Participation: For the organisation of and participation in competitions, trade fairs and exhibitions referred to in eligible activity (a):

- participation fees;
- travel costs and costs for the transportation of animals;
- costs of publications and websites announcing the event;
- the rent of exhibition premises and stands and costs of their installation and dismantling;
- symbolic prizes up to a value of €1,000 per prize and per winner of a competition.

Publications: For publications aimed at raising awareness of agricultural products among the wider public referred to in eligible activity (b):

- costs of publications in print- and electronic media, websites, and spots in electronic media, on radio or television, aimed at presenting factual information on beneficiaries from a given region or producing a given agricultural product, provided that the information is neutral and that all beneficiaries concerned have equal opportunities to be represented in the publication;
- costs for the dissemination of scientific knowledge and factual information on:
 - (i) quality schemes open to agricultural products from other Member States and third countries;
 - (ii) generic agricultural products and their nutritional benefits and suggested uses for them.

Special conditions

Publications shall not refer to any particular undertaking, brand name or origin. However that restriction shall not apply to reference to the origin of agricultural products covered by: (a) quality schemes as recognised by EU Regulations, provided that the reference corresponds exactly to that protected by the Union; (b) quality schemes as recognised by UK authorities, provided that the reference is secondary in the message.

The aid for **symbolic prizes** referred to above shall only be paid to the provider of the promotion measures if the prize has been actually awarded and upon presentation of a proof of the award.

Aid for **promotion measures** (both types of eligible activity) shall be accessible to all eligible undertakings in the area concerned, based on objectively defined conditions. Where the promotion measure is undertaken by producer groups and organisations, participation shall not be subject to membership of these groups or organisations and any contribution in terms of administration fees for the group or organisation shall be limited to the cost of providing the promotion measures.

Sectoral eligibility

The aid shall not be limited to specific agricultural products and must therefore be available either to all sectors of the primary agricultural production or to the whole plant production sector or to the whole animal production sector.

Aid limits

The aid intensity shall be limited to 100% of the eligible costs.

Types of assistance

The aid shall be granted:

- (a) in kind; or
- (b) on the basis of the reimbursement of the real costs incurred by the beneficiary.

Where the aid is granted in kind the aid shall not include direct payments to the beneficiaries but shall be paid to the provider of the promotion measures.

The provision of promotion measures may be undertaken by producer groups or other organisations, regardless of their size.

ARTICLE 29: AID FOR INVESTIGATIONS IN FAVOUR OF THE CONSERVATION OF CULTURAL AND NATURAL HERITAGE LOCATED ON AGRICULTURAL HOLDINGS

Large firms and SMEs are eligible.

Eligible activities

The aid shall be granted for cultural and natural heritage in form of natural landscapes and buildings located on the agricultural holding which are formally recognised as cultural or natural heritage by the competent public authorities.

Eligible Costs

The aid shall cover the following eligible costs intended for the conservation of cultural and natural heritage:

- (a) investment costs in tangible assets;
- (b) capital works.

Aid limits

The aid intensity shall be limited to 100% of the eligible costs. Aid for capital works shall be limited to €10,000 per year.

Types of assistance

Grant and loan.

Notification threshold

€500,000

ARTICLE 31: AID FOR RESEARCH AND DEVELOPMENT IN THE AGRICULTURAL AND FORESTRY SECTORS

Large firms and SMEs are eligible.

The purpose of this article is to subsidize R&D where it would be unlikely to be undertaken by a commercial undertaking, but would have general applicability for either the forestry or the agricultural sector.

The aid may be granted at 100% of the eligible costs of the organisation performing the research, in return for proposals for the research and the results being publicised widely and made available at no cost. (Note: support for R&D may also be available under SOSE's GBER scheme)

Eligible activities

Carrying out R&D in the forestry or agricultural sectors.

Eligible Costs

The eligible costs shall be the following:

- (a) personnel costs related to researchers, technicians and other supporting staff to the extent employed on the project;
- (b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible;
- (c) costs of buildings and land, to the extent and for the duration period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible;
- (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;
- (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

Special conditions

Aid shall be granted directly to the research and knowledge-dissemination organisation. The aid shall not involve payments to undertakings active in the agricultural sector based on the price of the agricultural products.

Prior to the date of the start of the aided project the following information shall be published on the internet:

- (a) that the aided project is to be carried out;
- (b) the goals of the aided project;
- (c) an approximate date for the publication of the results expected from the aided project;
- (d) the place of publication of the results expected from the aided project on the internet;
- (e) a reference that the results of the aided project are available to all undertakings active in the particular agricultural and forestry sector or sub-sector concerned at no cost.

The results of the aided project shall be made available on internet from the end date of the aided project or the date, on which any information concerning those results is given to members of any

particular organisation, whatever comes first. The results shall remain available on internet for a period of at least five years starting from the end date of the aided project.

Aid limits

The aid intensity shall be 100% of the eligible costs.

Types of assistance

Loan and grant.

Notification threshold

€7.5m

ARTICLE 38: AID FOR KNOWLEDGE TRANSFER AND INFORMATION ACTIONS IN THE FORESTRY SECTOR

Large firms and SMEs are eligible.

Eligible activities

The aid shall cover:

- vocational training and skills acquisition actions, including training courses, workshops and coaching, demonstration activities and information actions;
- aid may also cover short-term forest management exchanges and forest visits.

Eligible Costs

The aid shall cover the following eligible costs:

- (a) the costs of organising and delivering the knowledge transfer or information action;
- (b) in the case of demonstration projects related to investments:
 - (i) the construction, acquisition, including leasing, or improvement of immovable property, with land only being eligible to an extent not exceeding 10 % of total eligible costs of the operation concerned;
 - (ii) the purchase or lease purchase of machinery and equipment up to the market value of the asset;
 - (iii) general costs linked to expenditure referred to in points (i) and (ii), such as architect, engineer and consultation fees, fees relating to advice on environmental and

economic sustainability, including feasibility studies; feasibility studies shall remain eligible expenditure even where, based on their results, no expenditure under points (i) and (ii) is incurred;

(iv) acquisition or development of computer software and acquisitions of patents, licenses, copyrights and trademarks;

(c) the costs for travel, accommodation and per diem expenses of the participants.

The aid referred to in paragraph (a) and (b) above shall not involve direct payments to the beneficiaries. The aid shall be paid to the knowledge transfer and information actions provider.

Bodies providing knowledge transfer and information actions shall have the appropriate capacities in the form of staff qualifications and regular training to carry out such tasks.

Aid limits

The aid intensity shall be limited to 100% of the eligible costs.

Types of assistance

Grant and loan.

Notification threshold

No threshold has been set.

ARTICLE 39: AID FOR ADVISORY SERVICES IN THE FORESTRY SECTOR

Large firms and SMEs are eligible.

Aid shall be granted to the providers of advisory services for forest holders and other land managers in order to improve the economic and environmental performance and climate friendliness and resilience of their holdings, enterprise or investment.

Eligible activities

Providing advisory services.

Where justified and appropriate, the advice may be partly provided in group, while taking into account the situation of the individual beneficiaries of the advisory services.

Eligible Costs

Actual costs of providing the service.

Special conditions

The advice shall cover as a minimum issues related to the implementation of Directive 92/43/EEC (on the conservation of natural habitats and of wild fauna and flora), Directive 2000/60/EC (a framework for Community action in the field of water policy) and Directive 2009/147/EC (the conservation of wild birds). The advice may also cover issues linked to the economic and environmental performance of forestry holdings.

The aid shall not involve direct payments to the beneficiaries. The aid shall be paid to the provider of the advisory services.

The provider of advisory service shall have the appropriate resources in the form of regularly trained and qualified staff and advisory experience and reliability with respect to the fields they advise in.

When providing advice, the provider of advisory services shall respect the non-disclosure obligations referred to in Article 13(2) of the EU Regulation on management of the CAP¹⁴, ie.

“Member States shall ensure the separation between advice and checks. In that respect, and without prejudice to national law concerning public access to documents, Member States shall ensure that the selected and designated bodies as referred to in Article 12(1) do not disclose any personal or individual information or data they obtain in the course of their advisory activity to persons other than the beneficiary who is managing the holding concerned, with the exception of any irregularity or infringement found in the course of their activity which is covered by an obligation laid down in Union or national law to inform a public authority, in particular in the case of criminal offences.”

Aid limits

The aid shall be limited to the sterling equivalent of €1,500 per advice.

Types of assistance

Grant and loan.

ARTICLE 43: AID FOR FORESTRY LAND CONSOLIDATION

Aid granted to private forestry holders that are SMEs to help bring together into one holding several disparate pieces of land.

Eligible activities

Bringing together into one holding several disparate pieces of land.

¹⁴ (EU) No 1306/2013

Eligible Costs

Limited to the legal and administrative costs, including survey costs.

Aid limits

Up to 100% of the real costs incurred.

Types of assistance

Grant and loan.

Notification threshold

No threshold has been set.

ANNEX 1: DEFINITION OF ANNEX 1 GOODS AS PER THE EU TREATY

State aid for production, processing and marketing of these products may be given under the rules for agriculture and fisheries. The processing of these products into products not on this list may potentially be assisted under the SoSE GBER Scheme.

- Live Animals
- Meat and edible meat offal
- Fish, crustaceans and molluscs
- Dairy produce; birds' eggs; natural honey
- Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
- Animal products not elsewhere specified or included; dead animals, unfit for human consumption
- Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
- Edible vegetables and certain roots and tubers
- Edible fruit and nuts; peel of melons or citrus fruit
- Coffee, tea and spices, excluding maté
- Cereals
- Products of the milling industry; malt and starches; gluten; inulin
- Oil seeds and oleaginous fruit; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
- Pectin
- Lard and other rendered pig fat; rendered poultry fat
- Unrendered fats of bovine cattle, sheep or goats; tallow (including 'premier jus') produced from those fats
- Lard stearin, oleostearin and tallow stearin; lard oil, oleo-oil and tallow oil, not emulsified or mixed or prepared in any way
- Fats and oil, of fish and marine mammals, whether or not refined

- Fixed vegetable oils, fluid or solid, crude, refined or purified
- Animal or vegetable fats and oils, hydrogenated, whether or not refined, but not further prepared
- Margarine, imitation lard and other prepared edible fats
- Residues resulting from the treatment of fatty substances or animal or vegetable waxes
- Preparations of meat, of fish, of crustaceans or molluscs
- Beet sugar and cane sugar, solid
- Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel
- Molasses, whether or not decolourised
- Flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion
- Cocoa beans, whole or broken, raw or roasted
- Cocoa shells, husks, skins and waste
- Preparations of vegetables, fruit or other parts of plants
- Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol
- Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol
- Other fermented beverages (for example, cider, perry and mead)
- Ethyl alcohol or neutral spirits, whether or not denatured, of any strength, obtained from agricultural products listed in Annex I to the Treaty, excluding liqueurs and other spirituous beverages and compound alcoholic preparations (known as “concentrated extracts”) for the manufacture of beverages
- Vinegar and substitutes for vinegar
- Residues and waste from the food industries; prepared animal fodder
- Unmanufactured tobacco, tobacco refuse
- Natural cork, unworked, crushed, granulated or ground; waste cork
- Flax, raw or processed but not spun; flax tow and waste (including pulled or garnetted rags)

- True hemp (*Cannabis sativa*), raw or processed but not spun; tow and waste of true hemp (including pulled or garnetted rags or ropes)

Non-Annex I goods

It is not possible to provide an exclusive definition of the term 'non-Annex I good' since it represents all goods not listed in Annex I of the Treaty, ie. those which are made by processing the agricultural products listed in the basic agricultural product regulations. Thus it covers the vast majority of manufactured foods.

As a general rule it can be taken to include:

- ethnic and ready meals
- bakery products
- flavoured yoghurts
- frozen sweet corn
- some types of margarine
- sugar confectionery
- chocolate confectionery
- malt extract
- pasta
- breakfast cereals
- ice cream
- bread
- biscuits
- sandwiches
- snack products
- frozen deserts
- pizzas
- potato crisps
- tinned sweet corn
- peanut butter
- sauces
- soups
- mineral water
- soft drinks
- spirits
- beer

However, the following goods are specifically excluded from 'non-Annex I goods' (and thus are considered Annex I goods):

- those goods covered by the processed fruit and vegetable regime (e.g. orange juice, tomato paste);
- those first-stage processed products listed in the Annex I regimes (e.g. butter cheese, jam flour).

ANNEX 2: GENERAL DEFINITIONS IN THE SOSE ABE SCHEME

“**aid**” means any measure that is State aid by virtue of fulfilling all the criteria laid down in Article 107(1) of the Treaty;

“**SME**” or “**micro, small and medium-sized enterprises**” means undertakings fulfilling the criteria laid down in Annex 3;

“**agricultural sector**” means all undertakings active in primary agricultural production, processing and marketing of agricultural products;

“**agricultural product**” means the products listed in Annex I, except the fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council;¹⁵

“**primary agricultural production**” means the production of products of the soil and of stock farming, listed in Annex I, without performing any further operation changing the nature of such products;

“**processing of agricultural products**” means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for first sale;

“**marketing of agricultural products**” means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers is considered as marketing of agricultural products if it takes place in separate premises reserved for that purpose;

“**agricultural holding**” means a unit comprising of land, premises and facilities used for primary agricultural production;

“**natural disasters**” means earthquakes, avalanches, landslides and floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin;

“**aid scheme**” means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and for an indefinite amount;

“**evaluation plan**” means a document containing at least the following minimum elements: the objectives of the aid scheme to be evaluated; the evaluation questions; the result indicators; the envisaged methodology to conduct the evaluation; the data collection requirements; the proposed timing of the evaluation, including the date of submission of the final evaluation report; the description

¹⁵ 1.7.2014 L 193/15 Official Journal of the European Union EN (1) Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1)

of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation;

“individual aid” means: (a) ad hoc aid; and (b) awards of aid to individual beneficiaries on the basis of an aid scheme;

“ad hoc aid” means aid not granted on the basis of an aid scheme;

“undertaking in difficulty” means an undertaking in respect of which at least one of the following circumstances occurs:

- (a) in the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, “limited liability company” refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU of the European Parliament and of the Council¹⁶ and **“share capital”** includes, where relevant, any share premium;
- (b) in the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, “a company where at least some members have unlimited liability for the debt of the company” refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU;
- (c) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
- (d) where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan;
- (e) in the case of an undertaking that is not an SME, where, for the past two years:
 - (i) the undertaking's book debt to equity ratio has been greater than 7,5 and
 - (ii) the undertaking's EBITDA interest coverage ratio has been below 1,0;

¹⁶ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19)

“adverse climatic event which can be assimilated to a natural disaster” means unfavourable weather conditions such as frost, storms and hail, ice, heavy or persistent rain or severe drought which destroy more than 30 % of the average of the production calculated on the basis of:

- (a) the preceding three-year period; or
- (b) a three-year average based on the preceding five-year period, excluding the highest and the lowest entry;

“other adverse climatic events” means unfavourable weather conditions which do not meet the conditions of Article 2(16) of this Regulation;

“plant pest” means harmful organisms as defined in Article 2(1)(e) of Council Directive 2000/29/EC;¹⁷

“catastrophic event” means an unforeseen event of biotic or abiotic nature caused by human action that leads to important disturbances of forest structures, eventually causing important economic damage to the forest sectors;

“gross grant equivalent” means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charges;

“tangible assets” means assets consisting of land, buildings and plant, machinery and equipment;

“intangible assets” means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;

“repayable advance” means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

“start of works on the project or activity” means the earlier of either the start of the activities or the construction works relating to the investment, or the first legally binding commitment to order equipment or employ services or any other commitment that makes the project or activity irreversible; buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works or activity;

“large enterprises” means undertakings not fulfilling the criteria laid down in Annex 3;

“aid intensity” means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;

“date of granting the aid” means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;

¹⁷ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1)

“Union standard” means mandatory standard laid down in Union legislation setting the level which individual undertakings must achieve, in particular as regards the environment, hygiene and animal welfare; however, standards or targets set at Union level which are binding for Member States but not for individual undertakings are not deemed to be Union standards;

“rural development programme” means rural development programme as provided for in Article 6(1) of Regulation (EU) No 1305/2013;

“non-productive investment” means investment which does not lead to a significant increase in the value or profitability of the holding;

“investments to comply with a Union standard” means investments made to comply with an Union standard after the expiry of the transitional period provided for in Union legislation

“young farmer” means a person who is no more than 40 years of age on the date of submitting the aid application, possesses adequate occupational skills and competences and is setting up for the first time in an agricultural holding as a head of that holding;

“capital works” means works, undertaken by the farmer personally or by the farmer's workers, that create an asset;

“food based biofuel” means a biofuel produced from cereal and other starch rich crops, sugars and oil crops as defined in the Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources;¹⁸

“active farmer” means an active farmer within the meaning of Article 9 of Regulation (EU) No 1307/2013¹⁹ of the European Parliament and of the Council;

“producer group and organisation” means a group or organisation set up for the purpose of:

- (a) adapting the production and output of producers who are members of such producer groups or organisations to market requirements; or
- (b) jointly placing goods on the market, including the preparation for sale, centralisation of sales and supply to bulk buyers; or
- (c) establishing common rules on production information, with particular regard to harvesting and availability; or

¹⁸ COM(2012) 595, 17.10.2012

¹⁹ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608)

- (d) other activities that may be carried out by producer groups or organisations, such as the development of business and marketing skills and the organisation and facilitation of innovation processes;

“fixed costs arising from participation in quality scheme” means the costs incurred for entering a supported quality scheme and the annual contribution for participating in that quality scheme, including, where necessary, expenditure on checks required to verify compliance with the specifications of the quality scheme;

“advice” means complete advice given in the framework of one and the same contract;

“member of a farm household” means a natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, with the exception of farm workers;

“research and knowledge-dissemination organisation” means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development, or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities the financing, the costs and the revenues of those economic activities must be accounted for separately. Undertakings that can exert influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy a preferential access to its research capacities or to the results generated by it;

“arm's length” means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent undertakings and contain no element of collusion. Any transaction that results from an open, transparent and unconditional procedure is considered as meeting the arm's length principle;

“other land manager” means an undertaking which manages land other than undertaking active in the agricultural sector;

“processing of agricultural products into non-agricultural products” means any operation on an agricultural product resulting in a product which is not covered by Annex I to the Treaty;

“foodstuffs” means foodstuffs which are not agricultural products and which are listed in Annex I to Regulation (EU) No 1151/2012 of the European Parliament and of the Council;²⁰

“fundamental research” means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;

²⁰ Quality scheme for agricultural products and foodstuffs OJ L343, 14.12.2012

“industrial research” means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;

“experimental development” means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services; Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements; and

“feasibility study” means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success.

ANNEX 3: DEFINITION OF MICRO, SMALL AND MEDIUM SIZED ENTERPRISES

Article 1: Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Article 2: Staff headcount and financial ceilings determining enterprise categories

- 1 The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
- 2 Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
- 3 Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Article 3: Types of enterprise taken into consideration in calculating staff numbers and financial amounts

- 1 An “**autonomous enterprise**” is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
- 2 “**Partner enterprises**” are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise). However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:
 - 2.1 public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (“**business angels**”), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
 - 2.2 universities or non-profit research centres;
 - 2.3 institutional investors, including regional development funds;

- 2.4 autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5000 inhabitants.
- 3 **“Linked enterprises”** are enterprises which have any of the following relationships with each other:
- 3.1 an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- 3.2 an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- 3.3 an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- 3.4 an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise. There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as stakeholders. Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked. Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets. An **“adjacent market”** is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.
- 4 Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.
- 5 Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the ceilings set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Article 4: Data used for the staff headcount and the financial amounts and reference period

- 1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into

account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (“VAT”) and other indirect taxes.

- 2 Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial ceilings stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or microenterprise unless those ceilings are exceeded over two consecutive accounting periods.
- 3 In the case of newly established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5: Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU.

The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6: Establishing the data of an enterprise

- 1 In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.
- 2 The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation. To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the

percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies. To the data referred to in the first and second subparagraph is added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

- 3 For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these is added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation. For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these is added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.
- 4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.